Government
Publication

ONTARIO

THE ONTARIO MUNICIPAL BOARD
145 Queen Street West
Toronto, 1.

58TH ANNUAL REPORT

by

THE ONTARIO MUNICIPAL BOARD

Upon the Affairs of The Board

During the Year Ended

December 31, 1963

TO: THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Pursuant to Section 100 of
The Ontario Municipal Board Act
R.S.O. 1960, Chapter 274

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ONTARIO

THE ONTARIO MUNICIPAL BOARD

PART I

ESTABLISHMENT AND OPERATION

The Ontario Municipal Board was established under the authority of The Ontario Railway and Municipal Board Act, 1906. The present organization of the Board is provided for in The Ontario Municipal Board Act, (R.S.O. 1960, c.274). The Board carries out and performs statutory duties and functions only, and while it is a corporate body the practice is strictly followed of assigning members to specific applications and thereafter they are considered seized of such application. If a change must be made for an unavoidable reason the hearing is commenced de novo. The Board is given jurisdiction under a large number of statutes but its procedure and general powers are governed by The Ontario Municipal Board Act. Two members are a quorum to hear and dispose of any application and the Chairman may appoint one member to hear any application and report to the Board. In such cases the decision or order is made by two other members, one of whom must be the Chairman or a vice-chairman.

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PART II

MEMBERSHIP AND ORGANIZATION

The membership and organization of the Board during the period covered by this report was as follows:

J. A. KENNEDY, Q.C. (Appointed October 1st, 1956)	Chairman
R. L. KENNEDY (Appointed February 15th, 1951)	Vice-Chairman
J. R. TURNBULL (Deceased May 2nd, 1963)	Vice-Chairman
A. H. ARRELL, Q.C. (Appointed June 30th, 1961)	Vice-Chairman
H. E. ROBERTS (Appointed June 30th, 1961)	Vice-Chairman
W. GREENWOOD (Appointed January 1st, 1953)	Member
D. JAMIESON (Appointed December 1st, 1955)	Member
V. S. MILBURN (Appointed April 1st, 1956)	Member
A. L. McCRAE (Appointed December 1st, 1958)	Member
J. V. LUDGATE (Appointed April 1st, 1962)	Member
F. G. BLAKE (Appointed November 15th, 1962)	Member
W. SHUB, Q.C. (Appointed June 1st, 1963)	Member
R. M. McGUIRE (Appointed November 1st, 1963)	Member

B. VICKERS (Appointed April 1st, 1961)	Secretary
D. H. SUTHERLAND (Appointed January 1st, 1963)	Registrar

All members and staff are engaged full-time. The Board's Chambers during the year were located in the Ontario Government Building at 145 Queen Street West, Toronto.

PART III

JURISDICTION AND FUNCTIONS

The jurisdiction and function of this Board are a part of what has come to be known as the administrative process. With assessment appeals and compensation arbitrations as two notable exceptions, most of the functions of the Board are outgrowths of jurisdiction originally exercised by the Executive Council of the Province of Ontario or by the Legislature itself. The basic purpose of setting up an administrative tribunal to exercise such jurisdiction appears to have been to provide a forum in which those having an interest could be heard and could have their claims and interests adjudicated after a litigated hearing.

Since the Board is a tribunal it is in law subject to the rules of natural justice which are generally accepted to be:

1: That the tribunal shall be free from bias.

2: That all persons having an interest in the subject matter shall be heard.

It must be remembered also that in questions of law and jurisdiction there is an appeal from the Board to the Court of Appeal and on all other questions there is an appeal to the Executive Council of the province, the Cabinet.

The actual duties and functions of the Board are found largely in The Municipal Act, The Assessment Act, The Planning Act and the school acts, but in addition there is a myriad of other statutory provisions which confer jurisdiction on the Board in a very wide variety of cases. The functions and jurisdiction of the Board may be divided into two general categories:

1: Responsibility for the sound growth and development of municipalities within the framework of the statutes with particular regard to economic stability.

2: Jurisdiction as arbitrator in the first instance or by way of appeal to determine compensation to be paid by the Crown in the right of Ontario or its Crown corporations, by municipalities and other local authorities, and by certain private corporations.

These two divisions are reported on in Parts IV and V respectively of this report.

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PART IV

GROWTH AND ECONOMIC STABILITY OF MUNICIPALITIES

This part of the Board's jurisdiction can be divided under the following headings:

1: Constitution, Boundary Revision and Dissolution of Municipalities.

2: Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof.

3: Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision.

4: Assessment.

SECTION 1

Constitution, Boundary Revision and Dissolution of Municipalities

During the year the Board ordered the erection of one improvement district into a township and the incorporation of one new improvement district.

Given in Schedule "A" to this report is a list of one amalgamation and thirteen annexations ordered by the Board during the year. Particular mention should be made of the amalgamation of the City of Sault Ste. Marie with the neighboring Townships of Korah and Tarentorus. Perhaps unique in the history of boundary change applications was the fact that this application was made by one of the townships, Tarentorus, and was opposed by the city. Amalgamation was ordered effective January 1st, 1965, in order that ample time would be given at the local level to negotiate and work out as many as possible of the questions which arise in the case of a change of such extent. The formal order, deciding such questions as worked out, or failing such as decided by the Board, will be issued during the year 1964, but only after the local people have had a full opportunity to reach agreement.

A very unusual situation was dealt with in the annexation to the Town of Kapuskasing of the Improvement District of Val Albert and of part of the unorganized Township of O'Brien. In the

latter area was the hamlet known as Brunetville. The application was made by the Minister of Municipal Affairs. The plan presented to the Board and given general support was designed to bring desperately needed water, sewer and other minimum municipal services to the annexed areas and thus permit the whole community to develop as one municipality.

In the Woodstock decision the Board laid down two principles which might be said to be of general application and which have evoked considerable interest. They were:

1: On applications for boundary change there is not an onus on the applicant in the ordinary sense of that word as used in a case before the courts.

2: The controlling factor should not be the "need" of the applicant but rather what is for the greatest common good in the whole area under review.

SECTION 2

Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof

The year 1963 saw a very wide acceptance of the new procedure whereby municipalities who choose to do so file with the Board a five-year forecast of their capital needs and based thereon the Board establishes a quota for such municipality for the current year. The underlying purpose of this procedure is to transfer from provincial to municipal level the task of surveying, in the first instance at least, the debt position of the municipality both present and future and the future effect on the tax rate disclosed by such a study. This procedure will certainly result in most of the necessary control being exercised by local elected representatives and a minimum of restriction by this Board will be necessary.

The number of municipalities placed on quota during the year was as follows:

The Municipality of Metropolitan Toronto and Area Municipalities	14
Cities	27
Towns	54
Villages	1
Townships	10
Improvement Districts	nil
Total	106

The Board expects this number will increase to about 150 in the year 1964.

This practice means that the amount of new debt which the municipality should assume is decided once and for all at the beginning of the year. Then applications can be processed for approval as they are received with a minimum of delay according to a greatly streamlined procedure.

Apart from keeping watch on the over-all debt of a municipality, the Board must protect ratepayers against any very sharp increase in the debt of a municipality in a relatively short period of time. Such an increase in debt will be reflected in a future year in a sharp increase in the levy required to service the debt. This will, in many cases, result in a hardship to the taxpayer which it is the duty of this Board to consider and prevent.

There is another feature to which the Board must give special attention in the case of projects whereof the whole or part of the cost is to be recovered by the levy of a special rate. In every such case the Board requires that notice be published so that those against whom it is proposed to levy the special rate will have an opportunity to object. If objections are made the Board holds a hearing before the application is considered for approval.

The following table shows the number of new capital expenditure applications received and the total amount approved in each of the past five years:

Year	Number	Amount
1959	2,567	$284,040,812.67
1960	2,415	317,940,371.21
1961	2,299	274,132,977.37
1962	2,344	391,032,769.76
1963	2,107	382,913,130.95

A detailed classification of municipal capital expenditures approved during the year 1963 will be found in Schedule "B" to this report, together with comparative totals for the previous year.

Ontario Water Resources Commission

A considerable number of the capital undertakings of municipalities in the province are for the construction of waterworks or sewerage works by the Ontario Water Resources Commission under the provisions of The Ontario Water Resources Commission Act. Since these projects create a debt of the municipalities they require the approval of the Board under Section 64 of The Ontario Municipal Board Act. When part of the cost is to be raised by a special rate the Board requires public notice and if objections are made a public hearing is held. During the year 1963 the Board received 58 applications from the Commission having a total value of $11,130,522.16.

SECTION 3

Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision

The jurisdiction of the Board under this heading is conferred by The Planning Act.

The jurisdiction conferred on the Board under Section 30 of The Planning Act to approve land use by-laws passed by municipal councils and in certain cases to require a council to pass an amending by-law is of extremely far-reaching effect and results in the Board being obliged to review and sometimes vary

decisions made by local elected representatives. Usually these elected representatives have determined on a certain course with the advice and assistance of a planning board and in many cases of a trained and experienced planning staff. In the exercise of their best judgment the members of council by a majority vote arrive at a decision which they deem to be just and appropriate. In some cases a council will arrive at such a decision before hearing all those immediately concerned but in most cases council arrives at a decision only after full consideration of representations by all those who ought to be heard.

In this as in all areas of the Board's jurisdiction respect for local autonomy does and must remain a cornerstone of Board policy. In cases in which the Board finds after a full hearing and careful examination of all the facts that there is no reasonable alternative and that the decision of the council must be reversed, a certain measure of sincere criticism is sometimes voiced. On the other hand if the Board upholds the decision or verdict of the elected council against the demands of private interests or another local body, such as a school board, sincere criticism is also engendered among those whose contention has failed.

Such reactions are to be expected but it appears that over the years more and more people are coming to realize a community serves its own best interests by limiting public discussion of the decisions of its tribunals to fair comment. In any event, the duty of the Board under the statute is clear and must be followed.

The number of applications made to the Board under this legislation during the year, with figures for the two previous years, is as follows:

	1963	1962	1961
Applications for approval of restricted area by-laws	1001	939	851
Applications for approval of plans of redevelopment	5	2	3
Applications for approval of proposed plans of sub-division	18	22	23
Applications for approval of official plan amendments	31	47	67
Appeals to Board for a direction that a restricted area by-law be amended by council	39	46	64
Appeals from committees of adjustment	153	129	116

SECTION 4

Assessment Appeals

During the year 1963 assessment appeals were made to the Board under the several statutes as follows:

The Assessment Act	264
The Local Improvement Act	15
The Municipal Tax Assistance Act	3
The Power Commission Act	5

There were also filed during the year five appeals for a review of the division of liability among municipalities comprising high school districts.

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PART V

ARBITRATIONS IN RESPECT OF COMPENSATION FOR LANDS TAKEN OR INJURIOUSLY AFFECTED

The Board is given jurisdiction to determine compensation or damages to be allowed for lands taken or injuriously affected under various public statutes. The courts have held that in this field the Board must follow strict rules of evidence and what amounts to reasonably strict court procedure. As required by the rules of natural justice the Board's decisions must be based only on known evidence and after a full hearing conducted according to legal principles. During the year 1963 applications were made to the Board for compensation for damages to be allowed for lands taken or injuriously affected by authorities with the right of expropriation as follows:

	1963	1962
The Conservation Authorities Act	27	7
The Highway Improvement Act	42	46
The Municipal Act	23	45
The Ontario Water Resources Commission Act	7	11
Others	11	5

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PART VI

DUTIES AS DRAINAGE REFEREE

The Board was relieved of this responsibility during the year 1963.

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PART VII

REVENUE

In compliance with the requirement of Section 99 of The Ontario Municipal Board Act the Board has adopted a tariff of fees payable on various types of applications and orders.

The following table sets forth the fees received by the Board and transferred to the Treasurer of Ontario for the fiscal year ending March 31st, 1963, and the preceding six years. In conformity with the present system of provincial accounting this table is given for the fiscal year only, in contrast to other statistics contained in this report, which are made for the calendar year ending December 31st, 1963.

Fiscal Year	Amount
1956-57	$ 293,321.49
1957-58	272,339.09
1958-59	328,181.66
1959-60	345,538.56
1960-61	320,021.63
1961-62	294,001.91
1962-63	319,086.12

The revenues of the Board for the calendar year 1963 amounted to $316,610.60.

All of which is respectfully submitted.

J. A. KENNEDY
CHAIRMAN

B. VICKERS
SECRETARY

D. H. SUTHERLAND
REGISTRAR

This is SCHEDULE "A" to the 58TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1963, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

DECISIONS GRANTING ANNEXATIONS - 1963

Date of Decision	To	From	Effective date	Area
Jan. 2nd, 1963	Trenton Town	Murray & Sidney Townships	Jan. 1st, 1964	643.000 ac.
Apr. 9th, 1963	Seaforth Town	McKillop Township	Jan. 1st, 1964	25. "
Apr. 29th, 1963	Kingsville Town	Gosfield South Township	Jan. 1st, 1964	1,076. "
May 23rd, 1963	Port Colborne Town	Humberstone & Wainfleet Townships	Jan. 1st, 1964	8,200. " 3,500.
June 7th, 1963	Simcoe Town	Woodhouse Township	Jan. 1st, 1964	-
June 19th, 1963	Woodstock City	Blandford, East Oxford West Oxford & East Zorra Townships	Jan. 1st, 1964	-
Aug. 6th, 1963	Goderich Town	Goderich Township	Jan. 1st, 1964	160. "
Aug. 30th, 1963	Cannington Village	Brock Township	Jan. 1st, 1964	7.031 "
Oct. 28th, 1963	Sundridge Village	Strong Township	Jan. 1st, 1964	0.839 "
Nov. 4th, 1963	Kitchener City	Waterloo Township	Jan. 1st, 1964	738.556 "
Nov. 5th, 1963	Kapuskasing Town	Val Albert I.D. O'Brien Twp.	Jan. 1st, 1964	12.487 "
Nov. 13th, 1963	Mount Forest Town	Egremont Township	Jan. 1st, 1964	-
Nov. 27th, 1963	Chesterville Village	Winchester Township	Jan. 1st, 1964	5.68 "
Dec. 2nd, 1963	Barrie City	Vespra Township	Jan. 1st, 1964	-
Dec. 9th, 1963	Guelph City	Guelph Township	Jan. 1st, 1964	2.48 "
Dec. 13th, 1963	Smith's Falls Town	Montague Township	Feb. 1st, 1964	0.087 "

AMALGAMATION GRANTED - 1963

Oct. 17th, 1963	Tarentorus Township	Sault Ste. Marie Korah Township	Jan. 1st, 1965

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This is SCHEDULE "B" to the 58TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1963, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

CLASSIFICATION OF MUNICIPAL CAPITAL EXPENDITURES

APPROVED DURING 1963

I - MUNICIPAL

		Amount Approved	1963	1962
(1)	General Government			
	Civic Buildings	$ 21,720,652.03	$ 21,720,652.03	$ 24,504,698.02
(2)	Protection to Persons & Property			
	Fire	2,097,953.57		
	Police	72,875.84		
	Street Lighting	273,476.53	2,444,305.94	5,680,752.39
(3)	Public Works			
	(a) Grade Separations	1,698,840.00		
	Streets, Roads, Lanes	32,122,495.30		
	Sidewalks	4,846,428.91		
	Bridges	4,086,931.08		
	Tunnels & Subways	734,723.00		
	Road Machinery	857,793.97		
	Conservation	398,205.23		
	Viaducts	695,000.00		
	Workshops, Yards	340,000.00		
	Expressway	65,980,000.00	111,760,417.49	54,098,540.89
	(b) Watermains	9,291,421.62		
	Storm Sewers	36,931,288.79	46,222,710.41	48,956,368.59
(4)	Sanitation and Waste Removal			
	Sanitary Sewers	20,865,071.13		
	Sewage Disposal	20,579,101.63		
	Garbage	297,488.00		
	Street Cleaning	588,508.00		
	Waste Collection	30,000.00	42,360,168.76	51,585,117.65
(5)	Health			
	Hospital Grants	5,181,745.75	5,181,745.75	22,510,030.63
(6)	Social Welfare			
	Homes for the Aged	27,500.00		
	Charitable Institutions	13,604,878.00	13,632,378.00	8,629,234.33
(7)	Recreation Services			
	Parks	4,617,230.22		
	Skating Rinks, Arenas	1,753,802.72		
	Swimming Pools	7,500.00		
	Community Centres	1,359,329.00	7,737,861.94	9,203,416.00
(8)	Community Services			
	Fairs	34,570.00		
	Libraries	1,924,480.00		
	Housing	2,006,700.00	3,965,750.00	11,863,015.02
		General Government	$255,025,990.32	$237,031,173.52

II - EDUCATION

Elementary Schools	$55,695,445.08		
Secondary Schools	46,864,074.99	$ 102,559,520.07	$135,333,984.81

III - UTILITIES and MUNICIPAL ENTERPRISES

Gas	164,000.00		
Electric Utilities	5,281,531.99		
Water Works	13,374,334.03		
Telephone Municipal	827,450.00		
Transportation	881,013.04		
Acquisition of Lands (Industrial)	1,401,558.40		
Others - Including Parking Lots	3,397,733.10	$ 25,327,620.56	$ 18,667,611.43

S U M M A R Y

General Government	$ 255,025,990.32	$ 237,031,173,52
Education	102,559,520.07	135,333,984.81
Municipal Enterprises	25,327,620.56	18,667,611.43
	$ 382,913,130.95	$ 391,032,769.76

Schedule "B" - continued

CAPITAL EXPENDITURES - 1963

Separate Statement of Local Debt and General Debt

	Local Debt	General Debt	Total
General Government I and II		$ 24,164,957.97	$ 24,164,957.97
Public Works	$ 67,412,360.49	90,570,767.41	157,983,127.90
Sanitation	15,040,968.24	27,319,200.52	42,360,168.76
Health		5,181,745.75	5,181,745.75
Local Welfare		13,632,378.00	13,632,378.00
Recreation Services		7,737,861.94	7,737,861.94
Community Services		3,965,750.00	3,965,750.00
Education		102,559,520.07	102,559,520.07
Gas		164,000.00	164,000.00
Electric Utilities		5,281,531.99	5,281,531.99
Water Works		13,374,334.03	13,374,334.03
Municipal Telephone		827,450.00	827,450.00
Transportation		881,013.04	881,013.04
Acquisition of Lands (Industrial)		1,401,558.40	1,401,558.40
Other - includes parking lots		3,397,733.10	3,397,733.10
	$ 82,453,328.73	$300,459,802.22	$ 382,913,130.95